

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

THE PEOPLE OF THE STATE)	
Of CALIFORNIA)	
)	
Appellant,)	
)	
Vs.)	Case No.: 25-2370
)	District Court Case No.: 4:25-cv-999
23andME HOLDING CO., et al.)	
)	
Appellee)	

**EMERGENCY MOTION FOR RECONSIDERATION OR TEMPORARY
AND BRIEF ADMINISTRATIVE STAY PENDING APPLICATION
TO THE SUPREME COURT**

COME NOW Elizabeth Dreicer, a current customer of 23andMe, and Amici Curiae The University of California, Santa Cruz Center for Applied Values and Ethics in Advancing Technologies (“CAVEAT”), members of the Global BioData Trust Bioethics committee, Linda MacDonald Glenn, JD, LLM, Lisa A. Berkley, PhD, Alexander M. Capron, LLB, Camille Nebeker, EdD, MS, Nanette Elster, JD, MPH, Arthur L. Caplan, PhD, Paul Root Wolpe, PhD, Kayte Spector-Bagdady, JD, MBe, Robert Cook-Deacon, M.D., and Andrea Downing (hereinafter Appellants), and move this Court to enter a Temporary and Brief Administrative Stay of this Court’s Order dated July 11, 2025, and the Bankruptcy Court’s June 27, 2025 Order permitting the sale of 23andMe Holding Co., stating as follows:

1. This is a case of first impression involving a matter of national importance: whether a corporation in bankruptcy can transfer a person's genetic material and uniquely identifiable health data to a new entity without that person's affirmative, informed consent.

2. Because of the importance of the issues involved and the impending sale of approximately 15 million individuals' personally identifiable information in the form of their genetic code, Appellants plan to seek a Writ of Certiorari in the United States Supreme Court.

3. On June 27, 2025, the Bankruptcy Court approved the sale of 23andMe Holding Co., declining to implement any of the suggestions of the consumer privacy ombudsman report required under 11 USC §363(b)(1).

4. Appellants sought an emergency stay of the Bankruptcy Court's Order approving the sale in the Bankruptcy Court. Upon the Bankruptcy Court's denial of relief, Appellants appealed that ruling to the United States District Court for the Eastern District of Missouri and sought a stay pending the appeal of the Bankruptcy Court's Order approving the sale. After the District Court declined to stay the Bankruptcy Court's order, Appellants appealed to this Court, seeking an Emergency Order reversing the District Court's refusal to stay and an Order staying the Bankruptcy Court's Order approving the sale pending the resolution of this appeal.

5. On July 11, 2025, the Court issued a summary denial of Appellants' Emergency Motion to Stay.

6. Appellants respectfully request that this Court reconsider its July 11, 2025, Order denying the Emergency Motion for Stay. A motion for reconsideration is proper where, as here, material facts or legal arguments were not adequately considered, justifying a reexamination of the Court's ruling. The prior denial of the Motion to Stay should be reconsidered in light of: a) the failure of the lower courts to meaningfully address the constitutional implications of involuntary transfer of uniquely identifying biometric data; b) the fact that the Bankruptcy Court declined to adopt the opt-in procedures recommended by the statutorily required Consumer Privacy Ombudsman under 11 U.S.C. § 363(b)(1); and c) the significant public interest at stake, underscored by the objections of the State of California, the Consumer Protection Ombudsman, and amici comprising national experts in bioethics, privacy, and law.

7. Alternatively, Appellants now seek a Temporary and Brief Administrative Stay to allow them to seek a Writ of Certiorari in the United States Supreme Court. If this Motion for Temporary and Brief Administrative Stay is not granted, the sale of 23andMe Holding Co. will proceed. This threatens the immediate loss of personally identifiable information in the form of genetic material and

information of approximately 15 million customers or former customers of that company.

WHEREFORE, for the foregoing reasons, Appellants respectfully request that this Court:

- (1) Grant reconsideration of its July 11, 2025 Order denying Emergency Stay; or
- (2) Enter a Temporary and Brief Administrative Stay of the Bankruptcy Court's June 27, 2025 Order until 12:00 p.m. CST on Friday, July 19, 2025, to permit Appellants to file their Petition for Writ of Certiorari with the Supreme Court of the United States;
- and (3) Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

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& CHAPPELL, LLC**

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CERTIFICATE OF SERVICE

I, the undersigned, certify that a copy of the foregoing has been electronically served on all counsel of record via the Court's CM/ECF System on this 13th day of July 2025.

/s/ Martin J. Buckley

CERTIFICATE OF COMPLIANCE AND SERVICE

The undersigned hereby certifies that:

1. This Motion for Temporary and Brief Administrative Stay complies with the type-volume limitations in Rules 32(a)(5) and 32(a)(7)(B)(i) of the Federal Rules of Appellate Procedure. This pleading contains 933 words, as determined by Microsoft Office Word 2016 software and the type face (Times New Roman) is size 14.

2. This Motion for Temporary and Brief Administrative Stay has been scanned by the undersigned for viruses and no viruses were found.

3. A true and correct copy of this Motion for Temporary and Brief Administrative Stay was served upon all parties of record via the Eighth Circuit's filing system on July 13, 2025.

**BUCKLEY ENGELBART
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